

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

TED BELL

PETITIONER

V.

CIVIL ACTION NO. 3:22-CV-333-KHJ-MTP

WARDEN THOMAS

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is the [29] Report and Recommendation of United States Magistrate Judge Michael T. Parker. The Report recommends that the Court grant Thomas's [27] Motion to Dismiss or, alternatively, dismiss the case without prejudice for failure to prosecute and comply with the Court's prior order. Written objections to the Report were due March 23, 2023. The Report notified the parties that failure to file written objections to the findings and recommendations by that date would bar further appeal in accordance with 28 U.S.C. § 636.

When no party has objected to a magistrate judge's report and recommendation, the Court need not review it de novo. 28 U.S.C. § 636(b)(1). In such cases, the Court can apply the clearly erroneous, abuse of discretion, and contrary-to-law standards of review. *See United States v. Brigham*, 569 F.3d 220, 228 (5th Cir. 2009) (citation omitted).

Plaintiff Ted Bell filed this action in the United States District Court for the Northern District of Texas on January 3, 2022. R. & R. [29] at 1. At that time, he was incarcerated in the Federal Correctional Institution in Yazoo City, Mississippi.

Id. He complains of a “warrant which is a detainer,” preventing him from entering a re-entry program. Compl. [1]; Pet. [7] at 6. The Northern District of Texas construed his pleadings as a petition for a writ of habeas corpus under 28 U.S.C. § 2241, Order [8] at 1, and transferred the case to this Court based on Bell’s incarceration in Yazoo City, Mississippi, Order [19] at 1–2.

The Court directed Defendant Warden Thomas to file an answer or other responsive pleading on June 15, 2022. Order [22]. Bell was released from prison on August 12, 2022. Mot. Dismiss [27] at 1. The Government¹ moved to dismiss, arguing—among other things—that Bell’s release rendered the action moot. *Id.* at 2. Bell did not respond to the motion. And when the Court ordered him to show cause as to why the action should not be dismissed as moot, Bell again failed to respond. See Order [28]; [29] at 2. Accordingly, the Report recommends the Court grant the Government’s motion and dismiss the case with prejudice. [29] at 2. Alternatively, the Report recommends the Court dismiss the action without prejudice for Bell’s failure to prosecute or comply with the Court’s order. *Id.* at 2–3.

Bell did not object to the Recommendation, and his time to do so has passed. The Court finds the Report and Recommendation is not clearly erroneous or contrary to law. The Court therefore adopts the [29] Report and Recommendation of United States Magistrate Judge Michael T. Parker as the finding of this Court. Accordingly, the Court GRANTS the Government’s [27] Motion to Dismiss and

¹ According to the Government, there is no Warden Thomas at the Yazoo facility. [27] at 1 n.1. Accordingly, the Government appeared and moved to dismiss.

DISMISSES the case with prejudice. The Court will issue a separate Final Judgment consistent with this Order.

SO ORDERED, this the 27th day of March, 2023.

s/ Kristi H. Johnson

UNITED STATES DISTRICT JUDGE